UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/48/511
26 October 1993

ORIGINAL: ENGLISH

Forty-eighth session
Agenda item 115

SITUATION OF HUMAN RIGHTS IN ESTONIA AND LATVIA

Report of the Secretary-General

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 19	3
II.	BACKGROUND	20 - 23	6
	A. Historical profile	20	6
	B. Ethnic composition	21 - 23	6
III.	HUMAN RIGHTS ISSUES	24 - 79	7
	A. Citizenship	28 - 45	7
	B. The Language Law	46 - 57	10
	C. Freedom of movement	58 - 61	12
	D. Freedom of religion	62 - 65	13
	E. Cultural rights	66 - 75	13
	F. Economic and social rights	76 - 79	14
IV.	CONCERNS EXPRESSED BY RUSSIAN AUTHORITIES IN MOSCOW	80 - 86	15
V.	CONCLUSIONS AND RECOMMENDATIONS	87 - 102	16

CONTENTS (continued)

Annexes

I. Programme of work

II. List of persons met by the fact-finding mission

III. 1938 Law on Citizenship (excerpts)

IV. Resolution on the application of the Law on Citizenship

V. Language Law (excerpts)

VI. Guidelines on the Application of Language Requirements

VII. Law on Estonian Language Requirements for Applicants for Citizenship

VIII. Requirements and Recommended Content of the Estonian Language Examination for Applicants for Citizenship

IX. Immigration Law (excerpts)

I. INTRODUCTION

1. At its forty-seventh session, the General Assembly, in its resolution 47/115 of 16 December 1992 entitled "Situation of human rights in Estonia and Latvia", having taken note of the conclusions and recommendations made by the United Nations fact-finding mission that visited Riga in October 1992 at the invitation of the Government of Latvia (A/47/748, annex), noted with concern the existence of certain problems that involved large groups of population in Estonia and Latvia; welcomed the invitation of the Government of Estonia to receive a similar United Nations fact-finding mission; called upon the States concerned to intensify their efforts on the bilateral level aimed at resolving concerns with regard to the situation of the Russian-speaking population on the basis of generally accepted norms of international law in the field of human rights; and requested the Secretary-General to keep Member States informed of the progress in the field of human rights in Estonia and Latvia and to report thereon to the Assembly at its forty-eighth session.

2. At the invitation of the Government of Estonia and pursuant to resolution 47/115, the Secretary-General requested the Assistant Secretary-General for Human Rights to dispatch a fact-finding mission to investigate alleged discriminatory practices against minorities in Estonia.

3. The mission visited Estonia from 7 to 11 February 1993 and completed its task with consultations in Moscow on 12 February 1993. The report of the mission, including its conclusions and recommendations, is submitted herewith to the General Assembly for its consideration. Annexes referred to in the report are available for consultation in the files of the Secretariat upon request.

4. The Secretary-General wishes to reiterate, once again, the conclusions and recommendations reached by his fact-finding mission to Latvia, presented to the General Assembly at its forty-seventh session (A/47/748, annex) as well as the conclusions and recommendations of the mission to Estonia contained in the present report.

5. At the invitation of the Government of the Republic of Estonia, and pursuant to General Assembly resolution 47/115, the Secretary-General requested the Assistant Secretary-General for Human Rights to conduct a fact-finding mission (referred to as the "Mission") to investigate alleged discriminatory practices against minorities in Estonia.

6. The Mission, headed by the Chief of the Implementation Branch of the Centre for Human Rights and composed of Professional staff members from the Centre in Geneva and the Department of Political Affairs in New York, visited Estonia from 7 to 11 February 1993 and completed its task with consultations in Moscow on 12 February 1993.

7. The Mission's approach and methods of work were similar to those followed by a recent fact-finding mission to Latvia, which visited Riga in October 1992. An executive summary of that report was issued on 2 December 1992 (A/47/748, annex).

8. The Mission met with representatives of central and local authorities as well as with spokesmen representing workers, pensioners, cultural societies and education officials. The Government of Estonia facilitated the mission's fact-finding and provided all the necessary texts and translations. Regrettably, some updated statistics were unavailable and the Mission had to rely on unofficial estimates.

9. Among the Estonian representatives, the Mission met with His Excellency Lennart Meri, President of the Republic of Estonia, with Mr. Mart Laar, Prime Minister, with the Ministers of Foreign Affairs, Justice, Social Affairs and Culture, with the Head of the Commission on North-Eastern Estonia, the Head of the Citizenship Department in the Ministry of the Interior, the Head of the Language Department, members of the Education Department of the Ministry of Culture, members of the Riigikogu (Parliament), representatives of the Ida-Viru County Council, the Deputy Chairman of the Kohtla-Jarve City Council and members of the Institute of Human Rights. The Mission visited the Estonian School at Narva and the exhibition of the Narva Heritage Society.

10. Among the representatives of residents of non-Estonian ethnic origin, the Mission met with His Eminence Metropolitan Kornelij, Patriarch of the Russian Orthodox Church of Estonia, leaders of the newly formed Russian Assembly, workers of the Dvigatel factory, journalists of the Russian-language newspaper Estonija, representatives of the Union of Societies of Slavic Culture and of the Association of Ethnic Groups in Estonia, Narva City Government and City Council representatives and representatives of the Virumaa Information Centre at Narva, and visited one of the 13 Russian-language schools in Narva. The Mission also met His Excellency Alexandre Trofimov, Ambassador of the Russian Federation.

11. On 10 December 1992, President Lennart Meri established the Estonian Institute of Human Rights, composed of 16 board members, one of whom is an ethnic Russian and one of whom is a member of the Jewish minority. The Institute held its first meeting on 6 February 1993. Among the activities of the Institute will be the dissemination of information on human rights, in both the Estonian and Russian languages. A working group on the rights of minorities has been established.

12. The Mission focused primarily on the issue of citizenship and on the language requirements established for obtaining Estonian citizenship. The Mission also inquired into the cultural rights of minorities and their religious freedom. It observed that the difficult economic situation of the country, currently undergoing transition from a centralized socialist economy to a market-oriented economy, limits the possibilities of promoting faster integration of the residents of Estonia of non-ethnic Estonian origin. It noted with concern the level of unemployment, in particular in the north-east of Estonia.

13. The Mission did not examine the question of the withdrawal of Russian military personnel and their families, but did receive communications from veterans concerned that their pensions might become insufficient to cover rent and food because of inflation.

14. Compulsory population transfers are contrary to international law and are so perceived by the Estonian authorities. The Mission was not confronted with any advocacy of mass expulsion of non-citizens.

15. Although the members of the Mission found no evidence of discrimination along ethnic or religious grounds, it confirmed the impression of prior observers that there is, on the part of the Russian, Belarusian and Ukrainian communities, considerable anxiety about the future and, on the part of some members of the Estonian community, the desire to turn back the clock to the pre-1940 years, notwithstanding the fact that in the intervening period two generations of residents of non-ethnic Estonian origin have grown accustomed to living in Estonia and perceive Estonia as their homeland.

16. The Mission was conscious of the fact that Estonia is going through a transitional period, and that time is required for all communities in Estonia to adjust psychologically to the new realities. Although it observed that some residents of non-ethnic Estonian origin still oriented themselves toward the Russian Federation, the majority of residents showed a desire to integrate fully into Estonian society, to learn the Estonian language and to become loyal Estonian citizens. These residents of non-ethnic Estonian origin, many of whom were born in Estonia, do not perceive themselves as "colonizers" and simply wish to live in peace in Estonia.

17. The Mission learned of articles in the Estonian-language press expressing anti-Russian views. These articles did not purport to represent the views of the Government of Estonia. Bearing in mind the principle of a free press, such articles cannot be forbidden, as long as they do not incite to discrimination or are not defamatory; they could, of course, have a negative effect at a time when mutual confidence and cooperation are being officially promoted.

18. Only citizens can vote in national elections. Since only very few ethnic Russians, Belarusians and Ukrainians are Estonian citizens, there are at present no representatives of the Russian minority in the Estonian Parliament. It is expected that by the next parliamentary elections (envisaged for the spring of 1995) a great number of ethnic Russians, Ukrainians and Belarusians will have become naturalized citizens and will participate in the elections. The residents of Estonia of non-ethnic Estonian origin object to the fact that the Estonian parliament did not adopt a "zero option" on citizenship, as was done by some other former republics of the Soviet Union. In particular, they resent being unable to vote in national elections, although they do have the right to vote in local elections, pursuant to article 156 of the Estonian Constitution. Moreover, according to article 30 of the Constitution, positions in state and local government shall be filled by Estonian citizens. In exceptional cases they may be filled by foreign citizens or stateless persons. Such an exception was applied in the city of Narva, which has a 95 per cent non-citizen population.

19. Upon completion of its tasks in Estonia, the Mission travelled to Moscow and, on 12 February, met with the Deputy Minister of Foreign Affairs, Mr. V. Chiurkine, with the Head of the Committee on Human Rights of the Supreme Soviet of the Russian Federation, Mr. S. Kovalev, with members of the Committee on International Affairs of the Supreme Soviet, with the Head of the Humanitarian Cooperation and Human Rights Department of the Russian Ministry for

Foreign Affairs, Mr. T. Ramishvili, and with the Vice-Chairman of the State Committee on Nationalities.

II. BACKGROUND

A. Historical profile

20. Estonia has an ethnic population and language that is non-Slavic. Its closest relatives are in Finland. Throughout its history, Estonia was mostly in the spheres of influence of its neighbours, Czarist Russia, the Swedish crown or the German barons. It enjoyed full independence in the period from 24 February 1918 to 16 June 1940, as a parliamentary democracy. In June 1940, pursuant to the 1939 German-Soviet (Ribbentrop-Molotov) Pact, it was occupied by the Soviet Union, in 1941 invaded by Germany and in 1944 again occupied and annexed by the Soviet Union. It re-emerged as an independent State in 1991 and was admitted to membership in the United Nations. During Soviet rule, thousands of Estonians were killed and tens of thousands of Estonians were deported to other parts of the Soviet Union. Hundreds of thousands of Soviet citizens were brought into the territory of Estonia, mostly as manpower to run the industrial enterprises established in Estonia, especially in the north-east, which were intended to service the centralized Soviet market. Hundreds of thousands of Russians and other ethnic groups took temporary residence in Estonia as members of the military. Hundreds of thousands of persons of non-ethnic Estonian origin, however, became permanent residents of Estonia. In the referendum on the re-establishment of Estonian independence held on 3 March 1991, the vast majority of the voters, including 40 per cent of the population of non-ethnic Estonian origin, endorsed independence.

B. Ethnic composition

21. Of a total population of 1,562,065 according to the January 1992 estimate based on the 1989 census, some 61.5 per cent are ethnic Estonians, while nearly 600,000 or 38.5 per cent, are not ethnic Estonians, of whom 406,628 were born outside Estonia. The population not of ethnic Estonian origin is composed of some 475,000 ethnic Russians (30.3 per cent), 48,000 Ukrainians (3.1 per cent), 23,000 Belarusians (1.5 per cent), 17,000 Finns (1.1 per cent) and 35,000 others (2.5 per cent). At present there is a negative net migration, reflecting primarily the departure of persons not of Estonian origin.

22. It is estimated that since 1992 as many as 70,000 ethnic Russians, mostly members of the military and their families, have returned to the Russian Federation. Important considerations include the difficulty of the Russian Federation to finance servicemen and their families with hard currency outside the Russian Federation, and the situation of unemployment in Estonia. Because of these and other considerations, it is estimated that the number of ethnic Russians in Estonia will continue to decline over the next few years.

23. While rural areas of Estonia remain ethnically Estonian, many of the urban areas show majorities of non-Estonian origin, particularly in cities such as Sillamäe, Paldiski and Narva, where the ethnic Estonian population is less than 10 per cent. Residents of non-Estonian origin live throughout the country, with

a greater concentration in the north-east, adjacent to the Saint Petersburg Oblast of the Russian Federation. Many residents of Narva have relatives across the Narva River in the town of Ivangorod and in other nearby settlements in the Russian Federation.

III. HUMAN RIGHTS ISSUES

24. Estonia is a party, inter alia, to the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the International Covenant on Economic, Social and Cultural Rights, and to the International Convention on the Elimination of all Forms of Racial Discrimination. Estonia is not a party to the Convention on the Reduction of Statelessness of 1961.

25. The Estonian Constitution, adopted on 28 June 1992, sets forth extensive provisions for the protection of human rights and fundamental freedoms (arts. 8-55). These provisions are directly enforceable. Pursuant to article 15, everyone has the right to appeal to a court of law if his rights or liberties have been violated.

26. While some rights are confined to Estonian citizens, the Constitution provides that, unless specifically stipulated by law, the rights concerned shall also be enjoyed by non-Estonians.

27. Pursuant to article 123 of the Constitution, international treaties entered into by Estonia take precedence over conflicting national legislation. Moreover, pursuant to article 3, "universally recognized principles and norms of international law shall be an inseparable part of the Estonian legal system".

A. Citizenship

28. International law has traditionally left the issue of citizenship within the realm of a State's jurisdiction. Although human rights declarations and conventions contain relevant provisions on citizenship or nationality, there remains a certain gap in international human rights law. Indeed, the specific factual situation of annexation accompanied by the influx of very large numbers of persons into a small State with a different ethnic origin, followed by 50 years of settlement and multi-ethnic coexistence, followed by the re-emergence of the original State as an independent entity, does not seem to have been envisaged by drafters of the relevant instruments.

29. Article 15 (1) of the Universal Declaration of Human Rights stipulates that "everyone has the right to a nationality". This provision, however, does not oblige Estonia to grant citizenship to all its residents without any conditions. Article 24 (3) of the International Covenant on Civil and Political Rights, to which Estonia is a party, provides that "every child has a right to acquire a nationality". The Mission examined whether the conditions for granting Estonian citizenship are compatible with international norms and practice, and to what extent children born in Estonia, who otherwise would be stateless, are entitled to Estonian citizenship, if born after 21 January 1992, the date of the entry into force of the Covenant for Estonia. According to article 8 of the

Estonian Constitution, "every child with one parent who is an Estonian citizen shall have the right, by birth, to Estonian citizenship".

30. In the concrete context, Estonian citizenship is granted pursuant to the 1938 Law on Citizenship, in the version that was valid on 16 June 1940. Article 1 provides that Estonian citizenship is acquired at birth or by later legal procedure. Pursuant to the resolution of 26 February 1992 on the Application of the Law on Citizenship and article 3 of that Law, those persons who were Estonian citizens on 16 June 1940 and their descendants are Estonian citizens. Thus, the ethnic Estonian population and non-ethnic minorities and their descendants, including Russian, Ukrainian, Belarusian, Jewish and German minorities, are citizens if they or their ancestors were citizens on 16 June 1940; members or descendants of these long-established minorities are automatically citizens of Estonia regardless of their ability to speak Estonian. Persons who came to Estonia subsequent to the occupation by the Soviet Union are not citizens, even if born in Estonia, but can obtain Estonian citizenship by applying for naturalization.

31. Article 6 stipulates that a foreigner wishing to acquire Estonian citizenship by naturalization must fulfil the following requirements: (a) he or she must have attained the age of 18 years, or have obtained parental or guardian consent for acquiring Estonian citizenship; (b) he or she must have resided in Estonia on a permanent basis for at least two years prior to and one year after the date of application for Estonian citizenship; and (c) he or she must know the Estonian language.

32. According to article 7, the requirements regarding residence and knowledge of the Estonian language may be waived for (a) ethnic Estonians; (b) persons who provide particularly valuable service to Estonia or are widely known for their talents, knowledge or work; and (c) stateless persons, who, prior to the date of application for Estonian citizenship have permanently resided in Estonia for at least 10 years.

33. On 26 February 1992 the Estonian Supreme Council adopted a resolution on the application of the Law on Citizenship. For purposes of naturalization, the duration of permanent residency in Estonia, as stipulated in article 6, paragraph 2, began on 30 March 1990. Applications for naturalization have therefore been received since 30 March 1992 and the one-year residency requirement subsequent to the application will be completed on 30 March 1993 for those who applied in March 1992. Thus, most non-ethnic Estonian residents who satisfy the language requirement could soon enjoy Estonian citizenship through naturalization, if they so wish.

34. Certain categories of persons, however, are excluded, pursuant to article 16 of the resolution, from applying for Estonian citizenship: (a) foreign military personnel in active service; (b) persons who have been in the employ of the security and intelligence organizations of the Union of Soviet Socialist Republics; (c) persons who have been convicted of serious criminal offenses; and (d) persons lacking a legal steady income.

35. The Mission was concerned with the possible application of the exclusionary criterion "persons lacking a legal steady income" to persons who have become unemployed. It learned that unemployment benefits qualify as a legal steady

income and that in the case of persons who are unemployed for periods longer than those foreseen for the allocation of unemployment benefits, they would be deemed to have a legal steady income if they are married to a person having such an income or if they can be considered dependants of persons having such an income.

36. The Mission observed that the main obstacle to naturalization has been the language requirement, since the majority of the ethnic Russians, Belarusians and Ukrainians do not speak Estonian. This stems from the fact that during Soviet rule Russian was one of the two State languages and it was not necessary for Russian-speakers to learn Estonian. Therefore, a majority of the non-Estonian part of the population (up to 90 per cent - see para. 48) requires language training if they aspire to pass the language examination that is part of the naturalization process.

37. In view of the frequency of mixed marriages, amendments to the current law on citizenship are being considered. According to a coalition agreement signed by three factions of the Estonian Parliament, the amendments would provide for acquisition of Estonian citizenship by birth equally through the father or the mother who is an Estonian citizen; an equal right to Estonian citizenship for males and females who married Estonian citizens prior to 26 February 1992; and the possibility for children who are non-citizens born and educated in Estonia to present an application for Estonian citizenship one year prior to becoming legal adults, which would allow them to acquire Estonian citizenship without the waiting period.

38. As at 1 March 1993, 7,095 persons had been granted Estonian citizenship: 5,311 of them are of Estonian ethnic origin; 472 persons of non-Estonian ethnic origin were granted citizenship as they had provided services of particular value to Estonia; and 1,312 persons received it on the grounds of having met the language requirement. There were also 1,863 persons on the waiting list who had passed the language examination and whose one year waiting period would end in May 1993.

39. The Mission learned that the application for naturalization entails fees of some 25 Estonian krooni. Pursuant to articles 15 and 16 of the Law on Citizenship, the naturalization tax is not levied on a renewed application.

40. Foreign nationals and stateless persons in Estonia are under the protection of the Estonian Constitution of 28 June 1992, article 9 of which provides that "the rights, liberties and duties of everyone and all persons ... shall be equal for Estonian citizens as well as for citizens of foreign States and stateless persons who are present in Estonia".

41. According to article 3 of the 1991 Treaty on Basic Relations between the Republic of Estonia and the Russian Federation, both parties undertook to guarantee to all who were then citizens of the Soviet Union the right to preserve or receive the citizenship of Estonia or of the Russian Federation in accordance with their free choice, and pursuant to the applicable citizenship legislation.

42. Less than 20,000 inhabitants in Estonia have chosen to preserve Russian citizenship, and it appears that many non-citizens have not yet decided whether

or not to apply for Estonian citizenship or are simply unable to apply, since the language requirement in effect bars them from doing so (see para. 48). Therefore they remain effectively stateless. In Narva only approximately 7,000 of the 85,000 population are Estonian citizens; in Sillamäe only 600 of the 21,000 population are Estonian citizens.

43. The Minister of Justice affirmed that the citizenship law did not discriminate against the population of non-Estonian origin and stressed that the procedure for naturalization was very liberal in comparison to that of other States. He focused on the importance of ensuring that the population of non-Estonian origin integrate into Estonian society, for which knowledge of the Estonian language is a prerequisite. He referred to historical parallels, in particular, to the Evian talks on Algerian independence and to the Evian Agreement of 3 July 1962 between the Governments of France and Algeria. 1/

44. The Narva City Council is composed of ethnic Russians who, for the most part, are not Estonian citizens and do not speak Estonian. Their constituency is 95 per cent Russian-speaking. They consider the Estonian citizenship law to be in contravention of international legal standards, in particular of human rights norms. Language requirements, which are acceptable in cases of individual naturalization, should not be applied to entire populations and are perceived as discriminatory in nature. Bearing in mind the number of permanent residents of Estonia who are not of Estonian ethnic origin and considering that many of them were born in Estonia, it is submitted that the "zero option" on citizenship would have been fair.

45. The Russian-speaking population feels anxiety about the future and would like to regularize its citizenship status as a matter of urgency. It was felt that the attitude of the Estonian authorities could further destabilize the social and political situation in the country, especially in view of the current level of unemployment and general economic malaise.

B. The language law

46. Article 6 of the Estonian Constitution and article 1 of the Language Law of 18 January 1989 stipulate that Estonian is the State language of Estonia. Guidelines on the Application of Language Requirements were issued on 14 July 1989. Since the national identity of Estonians is intimately linked to their language, which is not spoken anywhere else in the world, it is important and legitimate for Estonians to give a high priority to the active use of the Estonian language in all spheres of activity in Estonia.

47. Although four years have elapsed since the adoption of the language law, only a relatively small percentage of ethnic Russians, Belarusians and Ukrainians living in Estonia have learned the Estonian language during this period. It appears that the former Estonian SSR did not adequately implement the law and that conditions for effective bilingualism were not created. In this connection the Mission also observes that some Russian-speaking local authorities apparently did not take the necessary steps to give priority to the learning of the Estonian language in their communities in preparation for Estonian citizenship.

48. Estonian authorities point out that whereas nearly all ethnic Estonians speak Russian, only about 10 per cent of the population of non-Estonian origin can communicate in Estonian (thus meeting the language requirement for naturalization). This situation presents practical problems, for instance, when a medical doctor or nurse does not understand any Estonian at all and an ethnic Estonian patient or child has to describe his or her condition in Russian. Estonian authorities refer to the imperative need of bilingualism in certain professions, especially in the service sector.

49. At present Estonian is being taught to all children in the schools, including in the Russian-speaking schools. Adult language education poses greater problems. Courses are being organized to teach Estonian to non-Estonian speakers. These courses are frequently paid for by the enterprises where the non-Estonian speakers work.

50. The 1989 Guidelines for implementing the Language Law established six categories of language knowledge, from A to F. Category A requires a language knowledge corresponding to oral and written comprehension of 800 words. Category E corresponds to oral and written proficiency at a level comprising a vocabulary of some 2,500 words. Category F corresponds to full knowledge of the language. In employment, level C is required for most retail and service jobs, levels D or E for persons in leading positions.

51. The Law on Estonian Language Requirements for Applicants for Citizenship was adopted by the Riigikogu on 10 February 1993. Article 2 of the Law stipulates that applicants for citizenship must:

(a) Have a listening comprehension of general information and official statements;

(b) Be able to hold a conversation;

(c) Be able to read and comprehend texts written in everyday language;

(d) Be able to compose standard applications in writing, be able to fill out applications and other forms, and be able to compose a curriculum vitae.

52. While these requirements seem to correspond to level B or C, there was, prior to the adoption of this law, general uncertainty as to the level to be required for citizenship applications, and some Estonian authorities considered that level E would be appropriate. If level E had been required of all applicants, it would have excluded the majority of the population of non-Estonian origin and, even after intensive language training, it would be a matter of many years until the population of non-Estonian origin would reach that level of proficiency, especially those who live in the north-east, where there is very little opportunity to practise the Estonian language.

53. According to article 3, an applicant's knowledge of the Estonian language shall be assessed through an examination. Certain categories, however, are exempt from completing an examination:

(a) Persons who have received primary, general, secondary or higher education in the Estonian language;

(b) Persons who have obtained an employment-related knowledge of the language, attested by an E or F category certificate.

54. Simplified language examinations may be established for persons born before 1 January 1930 and for certain categories of invalids.

55. Examinations are organized by the Language Department. Examinations at the various levels of proficiency are offered upon the conclusion of all language courses and at other specified dates. Persons who do not pass the examination may repeat it, as often as necessary, at a later date. There is, however, a fee of 30 Estonian krooni for taking the examination.

56. Language proficiency is of relevance not only as a prerequisite for citizenship but also for certain categories of employment. Russian-speakers who have not yet learned the Estonian language are concerned that they may eventually lose their jobs and become unemployed.

57. On the other hand, the Mission noted that, according to article 3 of the 1989 Language Law, the individual is guaranteed the possibility of conducting his or her affairs in Russian in the bodies of state authority and government, as well as in institutions, enterprises and organizations of the State. Moreover, the preamble of the Language Law also acknowledges "the inalienable right of citizens of all other nationalities to use their native language and develop vernacular culture, as well as the equality of all citizens before the law regardless of their native language". Although laws are still published in the official Gazette in both Estonian and Russian, many ethnic Russians, Ukrainians and Belarusians fear that publication in Russian will soon be discontinued.

C. Freedom of movement

58. Pursuant to article 34 of the Estonian Constitution, all persons legally present in Estonia have the right to freedom of movement and choice of abode. The right to freedom of movement may be restricted only in cases and in accordance with procedures determined by law for the protection of the rights and liberties of others, in the interest of national defence, in the event of a natural disaster and so on.

59. Only Estonian citizens have the right to an Estonian passport. Application for a passport costs 30 Estonian krooni. Most other residents of Estonia have former Soviet Union or Russian Federation passports, which, according to members of the Ministry of Foreign Affairs, are being recognized as travel documents until September 1993. Subsequent to that a new travel document now in preparation will be issued.

60. The Estonian Parliament is yet to adopt specific legislation on the legal status of resident foreigners and stateless persons.

61. Another issue of concern is that of family reunification, since many residents of Estonia have relatives abroad, particularly in the Russian Federation. Immigration quotas have been established, which if strictly applied, would in many cases impede family reunification. Pursuant to article 2 of the Immigration Law of 26 June 1990, residence permits may be granted by

local authorities per year only to 0.1 per cent of the number of inhabitants in the locality. The Mission received information to the effect that, although the Narva District has a quota of only 85 persons, it was permitted to admit 485 persons during 1992 on grounds of family reunification. According to article 5, family reunification is to be assisted.

D. Freedom of religion

62. Article 40 of the Estonian Constitution stipulates that "everyone shall have freedom of conscience, religion and thought".

63. The Mission met with His Eminence Metropolitan Kornelij, Patriarch of the Russian Orthodox Church of Estonia. He referred to the centuries-long history of the Orthodox Church in Estonia. He affirmed that today there is complete freedom of worship in Estonia, but that considerable financial problems prevail.

64. The question of citizenship troubles the religious community, and Orthodox priests, who would be eligible for citizenship, have frequently declined to apply for citizenship out of considerations of solidarity with the faithful, most of whom are not citizens because of the language requirement. Moreover, the demand that priests should be Estonian citizens could lead to the closure of Russian churches, as most of the clergy are non-citizens.

65. The Estonian Department of Religious Affairs has not opposed the statute that the Russian Orthodox Church has submitted, but has attempted to impose some restrictions on the activities of the Church, including canonic matters. Prohibiting the Church from engaging in entrepreneurship deprives it of the opportunity to obtain funding for its activities. The legal status of the only Russian monastery in Estonia has not been recognized and thus it cannot function normally. The Department also opposes the intention of the Church authorities to become hierarchically subservient to the Moscow Patriarchy. On the other hand, it is pointed out that the Catholic Church is oriented to the Pope in the Holy See.

E. Cultural rights

66. Article 49 of the Estonian constitution provides that "everyone shall have the right to preserve his or her ethnic identity". Article 50 provides that "ethnic minorities shall have the right, in the interests of their national culture, to establish institutions of self-government in accordance with conditions and procedures determined by the Law on Cultural Autonomy for Ethnic Minorities".

67. Minority groups in Estonia have the right to form their own cultural unions and societies and to organize their own ethnic school system. Bearing in mind that there are many ethnic groups in Estonia, the Government does not have, at present, the resources to provide for native-language instruction for all of them.

68. Russian-language education, including higher education, is financed by the Government of Estonia. In Tallinn, more Russian-speaking children (59 per cent

of the total of pupils) attend Russian schools than Estonian-speaking children attend Estonian schools.

69. Moreover, article 12 of the Constitution states that there shall be no discrimination on account of nationality, language or political persuasion. The Mission did not encounter any instance of such discrimination.

70. The Mission met with representatives of cultural societies, including the Chairman of the Union of Societies of Slavic Culture, with the Chairman of the Association of Ethnic Groups in Estonia and with representatives of minorities, including the Jewish, Russian and Finno-Ugric minorities. There are many cultural societies, including dance and choral societies, literature and theatre groups. Their activities are encouraged by the Government, but very little financial assistance is available.

71. The Union of Societies of Slavic Culture, which represents about half of the associations of Slavic culture, contributes to the efforts at integrating the Slavic with the ethnic Estonian communities, inter alia, by organizing courses in the Estonian language. Contacts with Estonian cultural societies are close, folklore festivals have been held in which all groups participate and mixed choral groups sing in both Estonian and Russian.

72. Members of the Association of Ethnic Groups in Estonia, in which some 20 ethnic groups are represented, expressed satisfaction with their enjoyment of cultural freedom and with the absence of discrimination against any of their members.

73. The representative of the Jewish minority stated that there is no discrimination against Jews in Estonia, in spite of an occasional anti-Semitic article in the free press or occasional acts of vandalism, which have been duly investigated by the police. One-third of the Jewish minority, numbering 3,000, have Estonian citizenship, since they or their ancestors had Estonian citizenship before 1940; about two-thirds of Jewish Estonians came to Estonia after 1940 and speak only Russian; some of them are members of Russian cultural societies, where they are not subject to discrimination because of their Jewish origin. Jewish schools are now teaching Estonian to all the children. Moreover, there is a Jewish member on the board of the Estonian Institute of Human Rights.

74. The German minority, numbering some 2,000, is composed of old Baltic Germans and of later immigrants from the former German Volga Republic; they have three German cultural societies.

75. The Maris are one of several Finno-Ugric tribes living in Estonia. A Mari cultural society was founded in 1990, with 359 members; it publishes in the Mari language. The majority of the Finno-Ugric population live in the Russian Federation.

F. Economic and social rights

76. The Estonian Minister of Social Affairs focused on the current level of unemployment and explained the system of unemployment insurance. The Mission

did not observe instances of discrimination in employment. No cases were reported of abuse of the language requirements to exclude Russian-speakers from access to certain positions. No instances of dismissal from employment or evictions from housing on ethnic grounds were brought to the attention of the Mission.

77. Unemployment has been increasing, particularly in the north-east, where the ethnic Russian minority is predominant. Apparently 20 to 25 per cent of the workforce in the north-east are unemployed. Owing to the limited resources of the state and local authorities, no retraining programme for the unemployed appears to have been organized.

78. By virtue of an agreement between Estonia and the Russian Federation, pensions are paid by Estonia to veterans of the Soviet Army who reside permanently in Estonia. Moreover, pensions are also being paid to former members of the state security (KGB).

79. The Mission met with the management of the Dvigatel factory, outside Tallinn, which has a workforce of some 3,000 employees, the majority of whom are exclusively Russian-speakers, and who do not have Estonian citizenship. Most of them, however, wish to acquire Estonian citizenship and 126 workers have already applied. They did not report instances of discrimination, but are concerned about the long-term effects of not having Estonian citizenship. Language courses have been and are being conducted in the factory at its expense. Senior management are also undertaking to learn Estonian and are paying for courses themselves. The Government has not allocated any funds for language courses. Unemployment poses a major concern, following the drop in the volume of work of the factory, which produced, inter alia, equipment for nuclear power stations; over 2,000 workers have already left the factory, which used to have a workforce of 5,000, and many of them left Estonia for the Russian Federation, if they obtained employment there; pensioners, however, have remained in Estonia, where their pensions are paid by the Government of Estonia.

IV. CONCERNS EXPRESSED BY RUSSIAN AUTHORITIES IN MOSCOW

80. The Mission met with the Deputy Foreign Minister of the Russian Federation, Mr. V. Chiurkine, who welcomed the fact that the United Nations was conducting fact-finding into the human rights situation in the Baltic States and was making concrete proposals. He hoped that United Nations intercession, together with the continued dialogue between the parties, would lead to a satisfactory solution that would ensure the human rights of the Russian-speaking population of the Baltics.

81. The Mission also met with Mr. S. Kovalev, Head of the Committee on Human Rights of the Supreme Soviet. He pointed out that numerous communications of individuals belonging to the Russian-speaking population residing in Estonia had been received by the Russian Parliament, especially concerning their anxiety on the issue of citizenship. They fear that Estonian government policy is not aimed at integrating Russians but at changing the demographic structure of the country by pressuring the Russian-speaking population to leave. The prevailing situation, in which a large part of the population of Estonia perceives itself as the victim of discrimination, poses a danger to stability. In this tense

atmosphere, opportunists and extremists may try to exacerbate matters. The Russian Parliament has repeatedly discussed the situation and the Ministry of Foreign Affairs is interceding with the Government of Estonia on behalf of the Russian-speaking population.

82. The Committee has held special hearings on the human rights situation in the Baltic countries; such hearings should not be seen as an interference in the domestic affairs of sovereign States or as an unfriendly act, since human rights are not an exclusively domestic affair and the hearings were carried out with the sole purpose of obtaining a clear picture on the basis of which mutually acceptable solutions might be found.

83. The Committee has expressed the view that to consider 38 per cent of the permanent residents of Estonia as foreigners or stateless persons constitutes humiliating treatment and a denial of their dignity, in violation of provisions of the Universal Declaration of Human Rights, in particular articles 6 and 15, and of the International Covenant on Civil and Political Rights, including articles 2, 25 and 26.

84. The Mission also met with the Head of the Humanitarian Cooperation and Human Rights Department of the Ministry of Foreign Affairs, Mr. T. Ramishvili, who was encouraged by the dialogue that is in progress and indicated to members of the Russian-speaking population in Estonia that it would be in their own interest to learn the Estonian language and to orient themselves more towards Tallinn and less toward Moscow. The attitude of revenge manifested by some Estonian officials is not helpful; they should understand and accept that the events of 1940 are part of history and that today's problems have to be solved in the light of today's parameters. He was optimistic about reaching solutions.

85. The State Committee on Nationalities, established in 1992, seeks a closer relationship with the Centre for Human Rights. Two conferences relating to the rights of minorities and indigenous peoples at which these issues will be discussed are to be held in the Russian Federation during 1993.

86. Estonia is a multicultural society and will remain so. It is in the interest of all residents of Estonia to endeavour to achieve rapid harmonization. The policy of the Government of Estonia should be aimed at integration of all of its residents and not at encouraging ethnic minorities to depart.

V. CONCLUSIONS AND RECOMMENDATIONS

87. The Estonian Constitution is compatible with the International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. The citizenship and language laws examined are also compatible with general principles of international human rights law. Problems have arisen, however, in the implementation of these laws.

88. The central issue is that of citizenship. At present, a great number of permanent residents in Estonia do not have Estonian citizenship. Although the Law on Citizenship Law is liberal, the language requirement, which is not <u>per se</u> objectionable, at present bars the great majority of the ethnic Russian, ethnic

Belarusian and ethnic Ukrainian population from acquiring citizenship. The level of proficiency in Estonian initially required was, in the opinion of the Mission, unreasonably high. At present, subsequent to the adoption, on 10 February 1993, of the Law on Estonian Language Requirements for Applicants for Citizenship, it appears that the level of proficiency now required would eventually bring citizenship within reach of most of the Russian-speaking population. This law also allows the President to lower the language requirement for invalids and for persons born prior to 1 January 1930. The Mission would recommend that this law be reviewed so as to waive language requirements completely as a prerequisite for citizenship for persons of 60 years and older and for invalids.

89. Children born in Estonia after 21 January 1992, the date of the entry into force for Estonia of the International Covenant on Civil and Political Rights, are entitled, by virtue of article 24, paragraph 3, of the Covenant, to acquire Estonian nationality, if they would otherwise be stateless.

90. Although most currently stateless persons in Estonia could acquire Russian, Belarusian or Ukrainian citizenship, they should not be encouraged to do so if they intend to remain as permanent residents of Estonia. They should be encouraged to learn the Estonian language and to apply for Estonian citizenship. It is in the interest of Estonia to take all necessary measures to facilitate their integration so as to maintain and preserve its traditionally peaceful and tolerant multicultural society.

91. Immigration quotas should allow sufficient flexibility as not to prevent or delay unduly legitimate family reunification. Estonia is invited to review its law and practice to ensure that there are no waiting lists compelling family members to live apart for years.

92. Travel documents or alien's passports should be provided to stateless persons so that they can freely travel abroad and return to Estonia, in keeping with the right to freedom of movement enshrined in article 12 of the International Covenant on Civil and Political Rights.

93. While many residents belonging to the non-Estonian part of the population harbour genuine feelings of anxiety as regards their uncertain status and perceive themselves as victims of a discriminatory policy excluding them from full participation in the life of Estonian society, the Mission did not establish or observe any specific instances of discrimination, as such.

94. The Mission welcomes the establishment of the Estonian Institute of Human Rights, whose mandate should be expanded to permit examination of complaints of alleged human rights violations in Estonia. It could also render an important service by helping in disseminating information about human rights norms and redress procedures.

95. The solution of the current conflict demands patience on the part of both communities. The Mission notes that the Language Law dates back to 1989 and independence to 1991. In this short period, complete integration could not have been achieved. The Mission did not learn of any instances of violence; rather, it observed an encouraging level of communication, which is continuing.

96. Since unemployment has been increasing, particularly in the north-east, where the ethnic Russian minority is predominant, state and local authorities should take the necessary measures to organize retraining programmes so as to expedite the reintegration of the unemployed into the workforce.

97. There is an overriding economic problem, which is responsible for delaying the implementation of the necessary programmes for the full integration of residents of Estonia who are not ethnic Estonians. Most importantly, there is an insufficient number of Estonian language teachers and limited funds to provide for teaching materials, including video cassettes.

98. Foreign donors, including the Russian Federation, should be invited to finance the production and distribution of materials for the teaching of the Estonian language, in particular for adult education.

99. The Estonian Defence Ministry may consider offering its draftees the option to spend part or all of the period of military service as teachers of the Estonian language, especially in those areas of Estonia where the lack of language teachers is most acute.

100. The United Nations Educational, Scientific and Cultural Organization (UNESCO) should be invited to extend its expertise in the teaching of languages. UNESCO could also be called upon to support inter-ethnic cultural activities of the Association of Ethnic Groups in Estonia and of the Union of Societies of Slavic Culture. The Mission is of the opinion that intensified cultural exchange among the ethnic groups in Estonia would contribute significantly to good will and cooperation and would enable the population of non-Estonian origin to be more rapidly integrated into Estonian society.

101. Persons who believe that their human rights are being violated in Estonia are invited to bring their cases before the competent administrative or judicial bodies in Estonia. Following exhaustion of domestic remedies, they may avail themselves of the review mechanism of the United Nations Human Rights Committee under the procedure established pursuant to the Optional Protocol to the International Covenant on Civil and Political Rights.

102. The United Nations Centre for Human Rights is prepared to offer advisory services and technical assistance to Estonia and to cooperate with the Estonian Institute of Human Rights, particularly with regard to dissemination of human rights information.

Notes

1/ United Nations, Treaty Series, vol. 507, No. 7395, pp. 34 et seq., in particular article A.II.2, "Provisions concerning French citizens of ordinary civil status", p. 35; see also the Code on Algerian Nationality, Journal officiel de la République algérienne, 18 December 1970, Order No. 70-86.